

August 14, 2018

Mr. Henry Leskinen
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

RE: 11117-11121 Reisterstown Road
Forest Conservation Variance
Tracking # 02-18-2772

Dear Mr. Leskinen:

A request for a variance from Article 33, Title 6, Baltimore County's Forest Conservation Law was received by this Department on July 25, 2018. This request seeks approval for the removal of a specimen tree in poor condition to construct one house on a proposed three lot subdivision. The specimen tree is a 30-inch diameter silver maple (Acer saccharinum) in poor condition.

The Director of EPS may grant a special variance to the Forest Conservation law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the three criteria under Subsection 33-6-116 (d) must be met, and all three (3) of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant is seeking to remove a specimen tree to construct one of three houses. The property is already developed with two houses, thus denying the variance would not deprive the petitioner of all beneficial use of the property. Therefore, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. Rather than the general conditions in the neighborhood, the petitioner's plight is due to the unique circumstances associated with the location of this tree relative to the buildable area as well as the narrowness of the property that precludes avoidance of the tree while still developing it as a three-lot subdivision. Therefore, we find that this criterion has been met.

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The third criterion (Subsection 33-6-116 (d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The removal of one specimen tree in poor condition will have no appreciable effect on the character of the neighborhood given that the proposed development is consistent with the size and density of the developed neighborhood. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The tree to be removed is not within close proximity to any stream, wetland, or associated buffer. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116 (e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance which is the result of actions taken by the petitioner. The petitioner has not taken any actions necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Permitting the removal of a dying specimen tree on a property that will otherwise comply with the Forest Conservation Law would be consistent with the spirit and intent the Forest Conservation Law. Therefore, this criterion has been met.

Based upon our review, this Department finds that all of the above criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code. Mitigation for removal of this tree is not required given its poor condition.

If you have any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

David V. Lykens
Deputy Director

DVL/ges

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- c. Marian Honeczy, Maryland DNR
Dwight Little, Little & Associates, Inc.